

REMARKS

This Reply is responsive to the final Office Action¹ dated October 27, 2009. Claims 1, 3, 5-10, 13-18, 22-32 and 34-36 were presented for examination and were rejected. Claims 2, 4, 11, 12, 19-21, and 33 were previously canceled. Claims 1, 10, 18, 28, 34 and 35 are independent claims. No claims are amended, added or canceled by way of this amendment. Claims 1, 3, 5-10, 13-18, 22-32 and 34-36 are pending.

The Rejections:

Claims 1, 3, 5 and 9 are rejected under 35 U.S.C. §103(a) as allegedly being un-patentable over Farris et al., U.S. Patent No. 5,751,789 (referred to hereinafter as “Farris”) in view of Knight, U.S. Patent Application Publication No. 2007/0060202 (referred to hereinafter as “Knight”).

Claim 6 is rejected under 35 U.S.C. §103(a) as allegedly being un-patentable over Farris in views of Knight and well known Prior Art (MPEP 2144.05).

Claim 7 is rejected under 35 U.S.C. §103(a) as allegedly being un-patentable over Farris in views of Knight, and Ehreth U.S. Patent No. 6,246,750 B1 (referred to hereinafter as “Ehreth”).

Claim 8 is rejected under 35 U.S.C. §103(a) as being un-patentable over Farris in views of Knight and McKenna et al. U.S. Patent No. 6,829,486 B2 (referred to hereinafter as “McKenna”).

¹ The Office Action may contain a number of statements characterizing the cited references and/or the claims which Applicant may not expressly identify herein. Regardless of whether or not any such statement is identified herein, Applicant does not automatically subscribe to, or acquiesce in, any such statement. Further, silence with regard to rejection of a dependent claim, when such claim depends, directly or indirectly, from an independent claim which Applicant deems allowable for reasons provided herein, is not acquiescence to such rejection of that dependent claim, but is recognition by Applicant that such previously lodged rejection is moot based on remarks and/or amendments presented herein relative to that independent claim.

Claims 10, 17, 18 and 23-26 are rejected under 35 U.S.C. §103(a) as being un-patentable over Cardina et al., U.S. 2004/0214569 A1 (referred to hereinafter as “Cardina”) in views of Knight and Javitt, U.S. Patent No. 6,285,857 (referred to hereinafter as “Javitt”).

Claims 14-16 are rejected under 35 U.S.C. §103(a) as being un-patentable over Cardina in views of Knight, Javitt and Sawada, U.S. 2005/0148315 A1 (referred to hereinafter as “Sawada”).

Claim 27 is rejected under 35 U.S.C. §103(a) as being un-patentable over Cardina in views of Knight, Javitt and McKenna.

Claims 28, 30-32 and 35 are rejected under 35 U.S.C. §103(a) as being un-patentable over Farris in views of Knight and Javitt.

Claim 29 is rejected under 35 U.S.C. §103(a) as being un-patentable over Farris in views of Knight Javitt and Patron et al., (U.S. 2005/0063333 A1) (referred to hereinafter as “Patron”).

Claims 13 and 22 are rejected under 35 U.S.C. §103(a) as being un-patentable over Cardina in views of Knight, Javitt, and further in view of well known prior art (MPEP 2144.05).

Claim 34 is rejected under 35 U.S.C. §103(a) as being un-patentable over Knight in view of Javitt.

Claim 36 is rejected under 35 U.S.C. §103(a) as being un-patentable over Farris in views of Knight, Javitt and Cheng et al., U.S. 2002/0187746 (referred to hereinafter as “Cheng”).

Applicant respectfully traverses these rejections, at least because the cited references taken individually or in any reasonable combination do not disclose or suggest all claim limitations of each pending claim for the following reasons.

I. Independent Claim 1:

“said another wireless transceiver being connected to said wireless transceiver through no more than one other wireless transceiver”

Claim 1 is rejected under 35 U.S.C. §103(a) as being un-patentable over Farris in view of Knight. Claim 1 reads on Applicant’s Fig. 8 which shows three wireless subscribers or three network interface units (NIU’s) identified as B, C and D. The wireless transceiver for subscriber B (right-hand side of Fig.) is the recited “wireless transceiver.” The wireless transceiver for subscriber D (left-hand side of Fig.) is the recited “another wireless transceiver.” The wireless transceiver for subscriber C (center of Fig.) is the recited “no more than one other wireless transceiver.”

The Office Action admits that Farris does not disclose at least “...said another wireless transceiver being connected to said wireless transceiver through no more than one other wireless transceiver...” as recited in claim 1. (Office Action, pg 4) The Office Action alleges that Knight compensates for the admitted deficiencies of Farris by teaching all of the recited subject matter of claim 1 which is not disclosed by Farris including the recited subject matter: “said another wireless transceiver being connected to said wireless transceiver through no more than one other wireless transceiver.” (Office Action, pg 5) In order for the Office Action to allege that Knight teaches this necessarily relies on an unreasonable interpretation of the claim language.

The Office Action says: “(...note that given the broadest reasonable interpretation, the claim language *no more than one other wireless transceiver* between the wireless transceiver and the another wireless transceiver, is interpreted as having one other transceiver or not in between (i.e., one hop relay), and Knight teaches a one hop relay figure 1).” (Office Action, pg 5, bold italics emphasis in Office Action) By the words, “or not”, the Examiner is apparently

suggesting that a “zero” quantity of “one other wireless transceiver” (i.e., a non-existent “one other wireless transceiver”) meets the claim language “no more than one other wireless transceiver.” Applicant agrees that this is a broad, if not the broadest, interpretation. But, Applicant strongly disagrees that it is the broadest reasonable interpretation of this claim language. To the contrary, this is an extremely unreasonable interpretation for the following reasons.

The claim recites a device comprising three transceivers: (1) a wireless transceiver in NIU B, (2) another wireless transceiver in NIU D and (3) one other wireless transceiver in NIU C. The Examiner is applying an isolated-arithmetic interpretation of the claim language “no more than” that allows for the possibility of a non-existent (zero) transceiver in NIU C, because the number “zero” is, arithmetically, “no more than” the number “one.” However, there is something else that is far more relevant to a broadest reasonable interpretation of claim 1 language than arithmetic in a vacuum; there is other substantive language in the claim which the Examiner is ignoring which, if given fair weight, would negate this unreasonable interpretation.

MPEP 2111.01(II) discusses Plain Meaning and says, *inter alia*: (“Claims are not to be read in a vacuum, and limitations therein are to be interpreted in light of the specification in giving them their ‘broadest reasonable interpretation’.” 710 F.2d at 802, 218 USPQ at 292 (quoting *In re Okuzawa*, 537 F.2d 545, 548, 190 USPQ 464, 466 (CCPA 1976)) (emphasis in original). In this instance, the Examiner is reading the recited “no more than” language in an out-of-context *arithmetic* vacuum to arrive at a broadest unreasonable interpretation.

For example, in fuller context, claim 1 recites: “no more than one other wireless transceiver that has also lost connectivity to the wireline network when said data is being relayed.” The very same “one other wireless transceiver” which the Examiner is choosing to

interpret as non-existent because it is modified by the “no more than” language, has lost connectivity per the claim language. It is an unassailable argument that a non-existent transceiver (per the Examiner’s arithmetical “zero” interpretation) never had, nor could have had, connectivity to anything because it does not exist.

But, because the recited “one other wireless transceiver” in the language of the claim “has also lost connectivity” it must have previously had connectivity (further discussed in next paragraph) wherefore it must exist. Thus, it cannot be a non-existent transceiver per the Examiner’s interpretation. Therefore, the Examiner’s interpretation is entirely unreasonable. Indeed, consideration of this fuller-context claim language not only suggests, but actually compels, the only reasonable interpretation which is that the recited language “no more than one other wireless transceiver” cannot mean a “zero” wireless transceiver but must mean: one and only one wireless transceiver and not two, nor three nor four, etc. wireless transceivers. Claims must be given their broadest reasonable interpretation.

Reinforcing the argument made above, subsequent claim 1 language states: “said another and said other wireless transceivers having been wireline-connected to the wireline network during normal operation.” The “said other wireless” transceiver is the recited “one other wireless transceiver.” Since the “said other wireless” transceiver was in a physical state of “having been wireline-connected to the wireline network during normal operation” (emphasis added) as called for in claim 1 itself, this “said other wireless” transceiver (which is the recited “one other wireless transceiver”) must exist and cannot be reasonably interpreted as non-existent. After all, it had been wireline connected, per the claim language. It can only be unreasonably interpreted as non-existent. Thus, the Examiner’s interpretation is unreasonable. The claim language itself demands a reasonable interpretation that “no more than one other wireless

transceiver” cannot mean no (zero) wireless transceiver, but must reasonably mean only-one-and-no-more-than-one other wireless transceiver, i.e., not two, not three, not four, etc.

MPEP 2111.01(III) provides: “The ordinary and customary meaning of a term may be evidenced by a variety of sources, including “the words of the claims themselves...”. *Phillips v. AWH Corp.*, 415 F.3d at 1314, 75 USPQ2d at 1327 Thus, using the words of claim 1 itself, in its more-sensible fuller-context, as demonstrated above, the ordinary and customary meaning of “no more than one” in the context of claim 1 cannot mean “none” (zero) and must only mean: one and not two, nor three, nor four, etc.

In addition, MPEP 2111.01(III) further provides: *Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1250, 48 USPQ2d 1117, 1122 (Fed. Cir. 1998) (“Where there are several common meanings for a claim term, the patent disclosure serves to point away from the improper meanings and toward the proper meanings.”) For example, with respect to the patent disclosure, claim 1 reads on Applicant’s Fig 8. Fig. 8 points away from an improper meaning (nonexistent transceiver) and towards the proper meaning, because it shows one, and not more than one, transceiver in connection with subscriber C. To interpret the transceiver of subscriber C as being non-existent in pursuit of a broadest interpretation of claim language based purely on arithmetic in a vacuum, where the claim itself and the patent disclosure itself plainly teach that such interpretation is grossly unreasonable, is to ignore this guidance provided by the MPEP.

Having thus constrained the interpretation of the recited “no more than one other wireless transceiver” to a correct and reasonable interpretation, it is clear that Farris and Knight taken individually or in any reasonable combination do not teach or suggest at least:

“wherein the wireless transceiver is configured to relay data from another wireless transceiver that has lost connectivity to the wireline network, said another wireless transceiver being connected to said wireless transceiver through *no more than one other wireless transceiver* that has also lost connectivity to the wireline network when said data

is being relayed, said another and said other wireless transceivers having been wireline-connected to the wireline network during normal operation” (emphasis added)

as recited in claim 1 because the Office Action admits (1) that Farris is deficient in this regard (Office Action pg 4) and (2) that “Knight teaches a one hop relay figure 1” (Office Action, pg 5) where a one hop relay cannot disclose or suggest subject matter recited in claim 1 when “no more than one other wireless transceiver” is reasonably interpreted. Accordingly, for at least this reason, the 35 U.S.C § 103(a) rejection of claim 1 should be withdrawn and the claim allowed.

II. Independent Claim 10:

providing wireless connectivity *directly* between said second transceiver and a third transceiver associated with said one said more than one other network subscriber

Claim 10 is rejected under 35 U.S.C. §103(a) as being un-patentable over Cardina in view of Knight and Javitt. The Office Action admits that Cardina and Knight do not disclose a substantial portion of claim language recited in claim 10, including the above highlighted language: “providing wireless connectivity directly between said second transceiver and a third transceiver associated with said one said more than one other network subscriber.” (Office Action, pgs 9-10) The Office Action relies on Javitt to supply the teachings which are admittedly deficient in Cardina and Knight. (Office Action, pg 10) But, Javitt also fails in this regard.

Before discussing Javitt in detail, Applicant advises that claim 10 also reads on Applicant’s Fig. 8 where the recited “network subscriber” is subscriber D (left-hand side of Fig.), the recited “more than one other network subscriber” are subscribers C and B (center and right hand side of Fig., respectively) and the recited “one said more than one other network subscriber” is subscriber B (right hand side of Fig.) Therefore, the recited “a first transceiver” is

associated with network subscriber D, the recited “a second transceiver” is associated with network subscriber C and the recited “a third transceiver” is associated with network subscriber B.

Javitt discloses a free space, line of sight (LOS), electro-magnetic communication (i.e., via light or microwave) system that associates a relay point or end point with each user to receive and transmit information via LOS principles. (Abstract) Consequently, each relay point must have, at a minimum, two transceivers. One transceiver at a relay point receives information from a source location which supplies that information to the one transceiver at that relay point in LOS straight-line direction A. A second and different transceiver co-located at that same relay point is handed that information by the one transceiver. The second transceiver relays (transmits) that information in LOS straight-line direction B to a destination location. It matters not whether directions A and B are co-linear or intersecting. In either case, two separate and distinct transceivers are used at that relay point, and at every Javitt relay point, at a minimum.

Indeed, Javitt discloses that two transceivers are needed at a minimum in each relay node. See at least column 1, lines 47-48 “Each of these relay points has at least two transceivers...” and column 3, lines 29-31 “Each relay point 30 has at least two, and in some cases more than two, free space optical transceivers for line of sight optical communication 50 with an area access point 20, one or more other relay points 30, and/or one or more end points 40.” (emphasis added)

Therefore, it is respectfully submitted that the Examiner is not viewing Javitt correctly. The Office Action states: “The Examiner respectfully disagrees. Javitt, some paths (See Fig. 1) requires only one relay transceiver 30a (i.e., second transceiver) between the end point transceiver 30b (i.e., first transceiver) and the access point 20a (i.e., third transceiver).

Therefore, Javitt meets the new limitations.” (Office Action, pg 2, bottom, emphasis in Office Action) But, in view of the plain disclosure of Javitt, underlined above, the Examiner’s statement reflects an erroneous view of the minimum number of transceivers required per Javitt relay point. As noted, the Examiner states “only one” relay transceiver is required in relay 30a which is plainly wrong; does the Examiner suggest this because relay 30a lies along a straight line transmission path? If so, the Examiner’s attention is respectfully directed to relay point 30k which also lies along a straight line transmission path, in which two transceivers are expressly required in Javitt: “Relay point 30k is typical of a relay point with two transceivers for communicating with relay point 30g and end point 40a, respectively.” (Javitt, col. 3, lines 35-38; emphasis added)

Without question, a minimum of two transceivers per relay point is needed in Javitt. Although relay point 30a in Javitt appears to relay signals along co-linear paths (from 20a to 30a and from 30a to 30b), a minimum of two transceivers are needed in relay point 30a to accomplish the task. One transceiver in relay point 30a receives the signal from access point 20a; a different transceiver in relay point 30a sends the signal to relay point 30b.²

Applicant’s claim 10 recites, *inter alia*: “when the wireline connection fails....(a) providing wireless-connectivity directly between a first transceiver associated with said network subscriber and a second transceiver associated with a network subscriber other than said one said more than one other network subscriber, and (b) providing wireless connectivity directly between said second transceiver and a third transceiver associated with said one said more than one other network subscriber.” (emphasis added)

² Javitt teaches unidirectional optical transmission, where each relay point requires a receiving transceiver and a different transmitting transceiver, even for signal flow received and relayed in a *co-linear* first direction. Those two separate transceivers reverse receiving/transmitting roles for a signal flow received and relayed in the opposite direction. By contrast, a wireless RF node needs only one transceiver to receive and transmit because RF is not transmitted unidirectionally.

Referring to Applicant's Fig. 8, the recited "first transceiver" is associated with subscriber D (left), the recited "second transceiver" is associated with subscriber C (center) and the recited "third transceiver" is associated with subscriber B (right). Applicant's direct connection is made directly between the second transceiver (with subscriber C, center) and the third transceiver (with subscriber B, right). Javitt does not disclose or suggest "providing wireless connectivity directly between said second transceiver and a third transceiver associated with said one said more than one other network subscriber" as recited in claim 10 (emphasis added) because Javitt always requires connectivity to be first accomplished, indirectly, through a respective additional transceiver located at each one of its relay points.

In the rejection of claim 10, the Office Action states:

Javitt teaches a network of geographically scattered users served by access points 20a and 20b (i.e., service providers), each of the users is associated with a transceiver relay point [HAVING TWO SEPARATE TRANSCIEVERS PER RELAY POINT] and form a link with the access points via one or more of the relay points, for example, relay point 30b (i.e., third wireless transceiver) can communicate with the access point 20a (i.e., first wireless transceiver) by relaying data via relay point 30a (i.e. second wireless transceiver))."

(Office Action, pg 10, capitalized language added) The Office Action language above ignores the fact that there are two separate and distinct transceivers in each and every relay point in Javitt. Consequently, the required Javitt operation of receiving a signal in transceiver #1 in a relay point, then handing-off the signal to transceiver #2 located in that same relay point where transceiver #2 then transmits the signal onward towards its intended destination, cannot disclose or suggest Applicant's claim language: "when the wireline connection fails....(a) providing wireless-connectivity directly between a first transceiver associated with said network subscriber and a second transceiver associated with a network subscriber other than said one said more than one other network subscriber, and (b) providing wireless connectivity directly between said

second transceiver and a third transceiver associated with said one said more than one other network subscriber.” (emphasis added)

The connection between an alleged equivalent to Applicant’s second transceiver located in one relay point in Javitt and an alleged equivalent to Applicant’s third transceiver located in a different relay point in Javitt is **not** a direct connection between those two transceivers because there is an intervening transceiver that **must** be employed in Javitt to indirectly complete the transmission path. Thus, Javitt does not disclose or suggest at least: “when the wireline connection fails....(a) providing wireless-connectivity directly between a first transceiver associated with said network subscriber and a second transceiver associated with a network subscriber other than said one said more than one other network subscriber, and (b) providing wireless connectivity directly between said second transceiver and a third transceiver associated with said one said more than one other network subscriber.” as recited in claim 10 (emphasis added).

Because Cardina and Knight do not, admittedly, disclose or suggest this claim language and because Javitt also does not disclose or suggest this claim language for reasons given above, each reference taken individually or in any reasonable combination also does not disclose or suggest this claim language. Accordingly, the 35 U.S.C § 103(a) rejection of claim 10 should be withdrawn and the claim allowed.

All claims that are dependent from claim 10, claims 13-17, are allowable, at least for reasons based on their dependencies from an allowable base claim.

III. Independent Claim 18:

Independent claim 18 is rejected under 35 U.S.C. §103(a) as being un-patentable over Cardina in view of Knight and Javett. Claim 18 recites, interalia:

providing backup network connectivity to said one node via a wireless network by wirelessly relaying data directly from a first transceiver in said one node to a second transceiver in another node in the plurality of network nodes which had an active wireline connection to the network service provider, said second transceiver being wirelessly connected directly to a third transceiver in yet another node in the plurality of nodes that has an active wireline connection to the network service provider. (emphasis added)

Claim 18 reads on Fig. 8, and “a first transceiver” may be included in NIU D, “a second transceiver” may be included in NIU C and “a third transceiver” may be included in NIU B.

The Office Action says that the combination of Cardina and Knight does not disclose wherein the second transceiver is wirelessly connected directly to a third transceiver in yet another node. (Office Action pg 13, top) Applicant agrees. The Office Action then relies on Javitt to compensate for the admitted deficiencies of Cardina and Knight. (Office Action pg 13) But, Javitt needs, at a minimum, two transceivers per relay point as discussed above. Therefore Javitt cannot disclose or suggest: “...wirelessly relaying data directly from a first transceiver in said one node to a second transceiver in another node in the plurality of network nodes which had an active wireline connection to the network service provider, said second transceiver being wirelessly connected directly to a third transceiver in yet another node in the plurality of nodes that has an active wireline connection to the network service provider” as recited in claim 18.

Since the combination of Cardina and Knight, admittedly, do not teach this limitation and since Javitt also does not teach this limitation, then the combination of the three references also does not teach or suggest this limitation. Accordingly, the 35 U.S.C § 103(a) rejection of claim 18 should be withdrawn and the claim allowed.

All claims that are dependent from claim 18, claims 22-27, are likewise allowable, at least for reasons based on their dependencies from an allowable base claim.

IV. Independent claim 28:

Claim 28 is rejected under 35 U.S.C. §103(a) as being un-patentable over Farris in view of Knight and Javitt. Claim 28 recites, inter alia:

wherein the wireless transceiver is configured to relay data directly from another wireless transceiver in another NIU to which its respective one of said wireline connections has failed, the another wireless transceiver relaying said data directly from yet another wireless transceiver in yet another NIU that is wireline-connected to the wireline network. (emphasis added)

Claim 28 reads on Fig. 8 wherein the “wireless transceiver” may be included in NIU D, the “another wireless transceiver” may be included in NIU C and the “yet another wireless transceiver” may be included in NIU B.

The Office Action admits that the combination of Farris and Knight does not disclose the another wireless transceiver relaying data directly from yet another wireless transceiver in yet another NIU. (Office Action page 18) Applicant agrees. The Office Action relies on Javitt which does relay data. But, because of Javitt’s requirement of a minimum of two wireless transceivers per relay point, as explained above with respect to claim 10, Javitt does not disclose or suggest “wherein the wireless transceiver is configured to relay data directly from another wireless transceiver in another NIU....the another wireless transceiver relaying said data directly from yet another wireless transceiver in yet another NIU that is wireline-connected to the wireline network” as recited in claim 28. Accordingly, Farris, Knight and Javitt taken individually or in any reasonable combination do not disclose or suggest at least this limitation of claim 28. Therefore, the 35 U.S.C § 103(a) rejection of claim 28 should be withdrawn and the claim allowed.

All claims that are dependent from claim 28 (claims 29-32 and 36) are likewise allowable, at least for reasons based on their dependencies from an allowable base claim.

V. Independent Claim 34:

Independent claim 34 is rejected under 35 U.S.C. §103(a) as being un-patentable over Knight in view of Javitt. Claim 34 recites, inter alia:

said one node having a first transceiver, said other node having a second transceiver and said third node having a third transceiver, wherein said wirelessly relaying data includes said first transceiver wirelessly communicating directly with said third transceiver and said third transceiver wirelessly communicating **directly** with said second transceiver.

Claim 34 reads on Fig. 8 wherein the “first transceiver” may be that in NIU D (left), the “second transceiver” may be that in NIU B (right), and the “third transceiver” may be that in NIU C (center).

The Office Action admits that Knight does not disclose relaying data indirectly between two nodes through a third node associated with a third network subscriber. Applicant agrees. (Office Action pg 24) The Office Action relies on Javitt to disclose wirelessly relaying data indirectly between two nodes through a third node associated with a third network subscriber. (Office Action pg 24) But, Javitt requires two transceivers, minimum, per relay point as explained above. Therefore, Javitt does not disclose or suggest: “said one node having a first transceiver, said other node having a second transceiver and said third node having a third transceiver, wherein said wirelessly relaying data includes said first transceiver wirelessly communicating directly with said third transceiver and said third transceiver wirelessly communicating **directly** with said second transceiver” as recited in claim 34.

Since Knight, admittedly, does not disclose or suggest this limitation and since Javitt, for reasons given above, does not disclose or suggest this limitation, then the combination of these

references likewise does not disclose or suggest this limitation. Accordingly, the 35 U.S.C. § 103(a) rejection of claim 34 should be withdrawn and the claim allowed.

VI. Independent Claim 35:

Independent claim 35 is rejected under 35 U.S.C. §103(a) as being un-patentable over Farris in view of Knight in view of Javitt. Claim 35 recites, inter alia:

wherein the wireless transceiver is configured to exchange said other data from another wireless transceiver that has lost wireline connectivity to the network, said another wireless transceiver being wirelessly connected directly to a third said wireless transceiver that has also lost wireline connectivity to the network, said third wireless transceiver being wirelessly connected **directly** to said wireless transceiver when said other data is being exchanged.

Claim 35 reads on Fig. 8 wherein the “wireless transceiver” may be that in NIU B, the “another wireless transceiver” may be that in NIU D, and the “third wireless transceiver” may be that in NIU C. The Office Action admits that the combination of Farris and Knight does not disclose the above-recited subject matter of claim 35. (Office Action, pg 21) Applicant agrees. The Office Action relies on Javitt to compensate for this admitted deficiency of Farris and Knight. (Office Action, pg 21) But, Javitt requires two transceivers, minimum, per relay point, as explained above. Therefore, Javitt does not disclose or suggest: “said third wireless transceiver being wirelessly connected **directly** to said wireless transceiver when said other data is being exchanged.” as recited in claim 35. Accordingly, since Farris, Knight and Javitt individually do not disclose or suggest the subject matter of claim 35, the combination of these references likewise do not disclose or suggest the subject matter of claim 35. Therefore, the 35 U.S.C § 103(a) rejection of claim 35 should be withdrawn and the claim allowed.

Applicant does not acquiesce in the combinability of these references. Applicant reserves its rights to present full arguments rebutting these reference-combinations in subsequent responses if need be. Applicant views its remarks as sufficient to overcome the rejections of all pending claims.³

CONCLUSION

In view of the Remarks, reconsideration and allowance of the pending claims are respectfully requested. It is respectfully submitted that all claims and, therefore, this application are in condition for allowance and prompt passage to issue is respectfully requested.

To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to deposit account number 07-2347. Please charge any other fees due, or credit any overpayment made to that account.

Respectfully submitted,

Date: **December 16, 2009**

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³ As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future.